

HOUSE JOURNAL

EIGHTY-THIRD LEGISLATURE, REGULAR SESSION

PROCEEDINGS

SIXTIETH DAY — MONDAY, APRIL 29, 2013

The house met at 2 p.m. and was called to order by the speaker.

The roll of the house was called and a quorum was announced present (Record 369).

Present — Mr. Speaker; Allen; Alonzo; Alvarado; Anchia; Anderson; Ashby; Aycock; Bell; Bohac; Bonnen, D.; Bonnen, G.; Branch; Burkett; Burnam; Button; Callegari; Canales; Capriglione; Carter; Clardy; Coleman; Collier; Cook; Cortez; Craddick; Creighton; Crownover; Dale; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Elkins; Farias; Farney; Farrar; Fletcher; Flynn; Frank; Frullo; Geren; Giddings; Goldman; Gonzales; González, M.; Gonzalez, N.; Gooden; Guerra; Gutierrez; Harless; Harper-Brown; Hernandez Luna; Herrero; Hilderbran; Howard; Huberty; Hughes; Hunter; Isaac; Johnson; Kacal; Keffer; King, K.; King, S.; King, T.; Kleinschmidt; Klick; Kolkhorst; Krause; Kuempel; Larson; Laubenberg; Lavender; Leach; Lewis; Longoria; Lozano; Lucio; Márquez; Martinez; Martinez Fischer; McClendon; Menéndez; Miles; Miller, D.; Miller, R.; Moody; Morrison; Muñoz; Murphy; Naishtat; Nevárez; Oliveira; Orr; Otto; Paddie; Parker; Patrick; Perez; Perry; Phillips; Pickett; Pitts; Price; Raney; Ratliff; Raymond; Reynolds; Riddle; Ritter; Rodriguez, E.; Rodriguez, J.; Rose; Sanford; Schaefer; Sheets; Sheffield, J.; Sheffield, R.; Simmons; Simpson; Smith; Smithee; Springer; Stephenson; Stickland; Strama; Taylor; Thompson, E.; Thompson, S.; Toth; Turner, C.; Turner, E.S.; Turner, S.; Villalba; Villarreal; Vo; Walle; White; Workman; Wu; Zedler; Zerwas.

Absent, Excused — Fallon; Guillen; King, P.

The speaker recognized Representative Rose who introduced Reverend Bruce D. Datcher, pastor, Ebenezer Missionary Baptist Church, Fort Worth, who offered the invocation as follows:

Our Father which art in heaven, hallowed be thy name; our help through weary years and silent tears, in ages past and our hope for years to come. We come before you this day in the humblest manner we know—with sincerity, meekness, and humility. We approach you today seeking guidance, seeking wisdom, and seeking your presence. We first say thank you for being our God. We thank you for how you have never abandoned us, but always provided for us.

We pray today for these legislators that have sacrificed their time for the good of our state. We ask, Father, that you bless each and every one of them as they seek to do business that will affect our state. We ask that you would bless their homes and their families. Father, I ask that you bless the governor of this great state and guide him as he leads us.

We pray this day not just for our state but for our country. We pray for the protection and guidance of our president, Barack Obama, and those in the senate and in Congress. We pray for our men and women that protect this country at home and abroad.

Father, we pray for the recovery of so many that have been affected by the tragedies that have taken place in our country. We pray for the entire city of Boston. We pray for those families that have suffered loss of life and limb. Then, O God, we pray for the town of West, Texas. We ask, O God, that you would bring comfort and you would bring peace to that small town. As they struggle with coping with loss, we ask that you be a very present help in their time of trouble as they move forward in rebuilding their lives and their town. Thank you, God, for always hearing our prayers. Continue to hear our prayer, O Lord, incline thy ear to us and grant us thy peace. In the name of Jesus, the Christ, I pray. Amen.

The speaker recognized Representative Collier who led the house in the pledges of allegiance to the United States and Texas flags.

LEAVES OF ABSENCE GRANTED

The following member was granted leave of absence for today and tomorrow because of illness in the family:

P. King on motion of R. Sheffield.

The following member was granted leave of absence for today because of a family emergency:

Fallon on motion of Raney.

The following member was granted leave of absence for today because of important business:

Guillen on motion of Raymond.

REGULAR ORDER OF BUSINESS SUSPENDED

On motion of Representative Workman and by unanimous consent, the reading and referral of bills was postponed until just prior to adjournment.

CAPITOL PHYSICIAN

The speaker recognized Representative Johnson who presented Dr. Monica Kalra of Dallas as the "Doctor for the Day."

The house welcomed Dr. Kalra and thanked her for her participation in the Physician of the Day Program sponsored by the Texas Academy of Family Physicians.

(Paddie in the chair)

**PROVIDING FOR A LOCAL, CONSENT,
AND RESOLUTIONS CALENDAR**

Representative S. Thompson moved to set a local, consent, and resolutions calendar for 10 a.m. Thursday, May 2.

The motion prevailed.

COMMITTEE GRANTED PERMISSION TO MEET

Representative S. Thompson requested permission for the Committee on Local and Consent Calendars to meet while the house is in session, at 2:40 p.m. today, in 3W.15, to set a calendar.

Permission to meet was granted.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Local and Consent Calendars, 2:40 p.m. today, 3W.15, for a formal meeting, to set a calendar.

**PROVIDING FOR A CONGRATULATORY
AND MEMORIAL CALENDAR**

Representative McClendon moved to set a congratulatory and memorial calendar for 10 a.m. Wednesday, May 1.

The motion prevailed.

COMMITTEE GRANTED PERMISSION TO MEET

Representative McClendon requested permission for the Committee on Rules and Resolutions to meet while the house is in session, during bill referral today, in 3W.9, to set a calendar.

Permission to meet was granted.

**HR 937 - PREVIOUSLY ADOPTED
(by G. Bonnen)**

The chair laid out the following previously adopted resolution:

HR 937, Honoring Dr. Ray Eric Santos for his contributions to the U.S. Navy and Navy Reserve and to his community.

On motion of Representatives Cortez and Sheets, the names of all the members of the house were added to **HR 937** as signers thereof.

INTRODUCTION OF GUESTS

The chair recognized Representative G. Bonnen who introduced Dr. Ray Eric Santos and members of his family.

HR 1603 - ADOPTED
(by Isaac)

Representative Isaac moved to suspend all necessary rules to take up and consider at this time **HR 1603**.

The motion prevailed.

The following resolution was laid before the house:

HR 1603, Honoring Maverick Walker, the 2013 Austin Arthritis Walk Hero.

HR 1603 was adopted.

On motion of Representative Parker, the names of all the members of the house were added to **HR 1603** as signers thereof.

INTRODUCTION OF GUESTS

The chair recognized Representative Isaac who introduced Maverick Walker and members of his family.

HR 1480 - PREVIOUSLY ADOPTED
(by Isaac)

The chair laid out the following previously adopted resolution:

HR 1480, Honoring Linda Kinney of Hays County for her service to her community.

INTRODUCTION OF GUESTS

The chair recognized Representative Isaac who introduced Linda Kinney and members of her family.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Rules and Resolutions, during bill referral today, 3W.9, for a formal meeting, to set a calendar.

HR 1800 - ADOPTED
(by Geren)

Representative Geren moved to suspend all necessary rules to take up and consider at this time **HR 1800**.

The motion prevailed.

The following resolution was laid before the house:

HR 1800, Commending the Department of Public Safety on its commitment to protecting and serving the citizens of Texas.

HR 1800 was adopted.

On motion of Representatives Fletcher, Pickett, and Riddle, the names of all the members of the house were added to **HR 1800** as signers thereof.

INTRODUCTION OF GUESTS

The chair recognized Representative Geren who introduced representatives of the Texas Department of Public Safety.

HB 1790 - RECOMMITTED

Representative Longoria moved to recommit **HB 1790** to the Committee on Criminal Jurisprudence.

The motion prevailed.

FIVE-DAY POSTING RULE SUSPENDED

Representative Herrero moved to suspend the five-day posting rule to allow the Committee on Criminal Jurisprudence to consider **HB 1790**, **SB 701**, **SB 1292**, and the previously posted agenda upon final adjournment today in E2.036.

The motion prevailed.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Criminal Jurisprudence, upon final adjournment today, E2.036, for a public hearing, to consider **HB 1790**, **SB 701**, **SB 1292**, and the previously posted agenda.

(Speaker in the chair)

POSTPONED BUSINESS

The following bills were laid before the house as postponed business:

SB 945 ON SECOND READING

(S. Davis - House Sponsor)

SB 945, A bill to be entitled An Act relating to the identification requirements of certain health care providers associated with a hospital.

SB 945 was considered in lieu of **CSHB 1782**.

SB 945 was read second time.

Representative S. Davis moved to postpone consideration of **SB 945** until the end of today's calendar.

The motion prevailed.

SB 1815 ON SECOND READING

(Zerwas, Ratliff, and Taylor - House Sponsors)

SB 1815, A bill to be entitled An Act relating to voluntary donations to the Glenda Dawson Donate Life-Texas Registry.

SB 1815 was considered in lieu of **CSHB 519**.

SB 1815 was read second time.

Amendment No. 1

Representative Zerwas offered the following amendment to **SB 1815**:

Amend **SB 1815** as follows:

(1) On page 1, line 9, strike "department" and substitute "Department of Public Safety".

(2) On page 3, line 12, strike "department" and substitute "Department of Public Safety".

(3) On page 6, line 7, strike "county assessor-collector" and substitute "department".

(4) On page 6, lines 11-12, strike "county assessor-collector" and substitute "department".

(5) On page 6, line 22, strike "county assessor-collector" and substitute "department".

Amendment No. 1 was adopted.

Amendment No. 2

Representative Zerwas offered the following amendment to **SB 1815**:

Amend **SB 1815** as follows:

(1) On page 3, line 17, strike "521.421(g)," and substitute "[~~521.421(g)~~]".

(2) Insert the following appropriately numbered SECTION and renumber subsequent SECTIONS accordingly:

SECTION _____. Section 521.427(b), Transportation Code, is amended to read as follows:

(b) Subsection (a) does not apply to:

(1) the portion of a fee collected under Section 521.421(b) or Section 521.421(f), as added by Chapter 1156, Acts of the 75th Legislature, Regular Session, 1997, that is required by Section 662.011 to be deposited to the credit of the motorcycle education fund account;

(2) a fee collected under Section 521.421(j);

~~[(3) a fee collected under Section 521.421(g);]~~ or

(3) ~~[(4)]~~ a fee collected under Section 521.422(b) or (c).

(3) On page 9, line 6, insert "(a)" between the period and "Sections".

(4) On page 9, between lines 7 and 8, insert the following:

(b) Effective September 1, 2014, Section 521.421(g), Transportation Code, is repealed.

Amendment No. 2 was adopted.

SB 1815, as amended, was passed to third reading.

CSHB 519 - LAID ON THE TABLE SUBJECT TO CALL

Representative Ratliff moved to lay **CSHB 519** on the table subject to call.

The motion prevailed.

SB 312 ON SECOND READING
(Laubenberg - House Sponsor)

SB 312, A bill to be entitled An Act relating to the regulation of speech-language pathology and audiology and the fitting and dispensing of hearing instruments.

SB 312 was considered in lieu of **CSHB 1549**.

SB 312 was read second time and was passed to third reading.

CSHB 1549 - LAID ON THE TABLE SUBJECT TO CALL

Representative Laubenberg moved to lay **CSHB 1549** on the table subject to call.

The motion prevailed.

HB 2439 ON SECOND READING
(by Parker, Carter, et al.)

HB 2439, A bill to be entitled An Act relating to the review of certain contracts by the state auditor.

HB 2439 was read second time on April 26 and was postponed until 12 p.m. today.

Representative Parker moved to postpone consideration of **HB 2439** until the end of today's calendar.

The motion prevailed.

HB 832 ON SECOND READING
(by Giddings, Branch, et al.)

HB 832, A bill to be entitled An Act relating to the abatement of mosquitoes in stagnant water located on certain uninhabited residential property.

HB 832 was read second time on April 23 and was postponed until 2 p.m. today.

Representative Giddings moved to postpone consideration of **HB 832** until 5 a.m. Friday, May 3.

The motion prevailed.

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Special Purpose Districts, upon adjournment today, 1W.14, for a formal meeting, to consider pending business.

County Affairs, upon adjournment today, 3W.15, for a formal meeting, to consider pending business.

(S. Davis in the chair)

**MAJOR STATE CALENDAR
HOUSE BILLS
SECOND READING**

The following bills were laid before the house and read second time:

**CSHB 11 ON SECOND READING
(by Ritter, Larson, P. King, Pitts, Creighton, et al.)**

CSHB 11, A bill to be entitled An Act relating to the appropriation of money from the economic stabilization fund to finance certain water-related projects.

Representative Ritter moved to postpone consideration of **CSHB 11** until 3:50 p.m. today.

The motion prevailed.

**MAJOR STATE CALENDAR
SENATE BILLS
SECOND READING**

The following bills were laid before the house and read second time:

**SB 202 ON SECOND READING
(Price and Guillen - House Sponsors)**

SB 202, A bill to be entitled An Act relating to the continuation and functions of the Texas Commission on the Arts.

SB 202 was passed to third reading. (S. King recorded voting yes; Bohac, Gooden, Laubenberg, Schaefer, Simpson, Springer, Taylor, Toth, E. S. Turner, and White recorded voting no.)

**GENERAL STATE CALENDAR
HOUSE BILLS
SECOND READING**

The following bills were laid before the house and read second time:

**CSHB 1087 ON SECOND READING
(by Giddings)**

CSHB 1087, A bill to be entitled An Act relating to authorizing the placement of a security freeze on the consumer file or other record created or maintained by a consumer reporting agency regarding a person under 16 years of age.

Representative Giddings moved to postpone consideration of **CSHB 1087** until 12 p.m. Friday, May 3.

The motion prevailed.

**CSHB 52 ON SECOND READING
(by Flynn)**

CSHB 52, A bill to be entitled An Act relating to the sale of a cemetery plot; providing penalties; authorizing a fee.

CSHB 52 was passed to engrossment. (Laubenberg and Schaefer recorded voting no.)

SB 120 ON SECOND READING
(N. Gonzalez, Branch, et al. - House Sponsors)

SB 120, A bill to be entitled An Act relating to the creation of the Texas Tech University Health Sciences Center at El Paso as a component institution of the Texas Tech University System.

SB 120 was considered in lieu of **HB 257**.

Amendment No. 1

On behalf of Representative N. Gonzalez, Representative Marquez offered the following amendment to **SB 120**:

Amend **SB 120** (house committee printing) in SECTION 4 of the bill, by striking added Section 110.36, Education Code (page 3, lines 9 through 13), and substituting the following:

Sec. 110.36. TEACHING HOSPITAL. A teaching hospital considered suitable by the board of regents for the Texas Tech University Health Sciences Center at El Paso may be provided by a public or private entity. The hospital may not be constructed, maintained, or operated with state funds.

Amendment No. 1 was adopted.

SB 120 - REMARKS

REPRESENTATIVE PERRY: Representative Gonzalez, it's my understanding, and just for clarification, so people who are tied to Texas Tech, this is agreed upon—all stakeholders, everybody's favorable for it, everybody's excited about it and glad that you're carrying this legislation—but I've had several people ask how is Lubbock, or how is Tech feeling about this, and from all indications, they're 100 percent supportive.

REPRESENTATIVE N. GONZALEZ: That's a very good question, thank you, Representative Perry. Yes, as a matter of fact, this bill is an agreed-upon bill. The board of regents actually pushed in June to have this be a part of the legislative agenda. Chancellor Kent Hance is very much in favor of this happening, as is Dr. Tedd Mitchell, so yes, this is an agreed-upon bill.

PERRY: It's kind of a follow-through of where we started, and we're continuing down that road. I appreciate you carrying it.

REMARKS ORDERED PRINTED

Representative Perry moved to print remarks between Representative N. Gonzalez and Representative Perry.

The motion prevailed.

SB 120, as amended, was passed to third reading. (Toth and Zedler recorded voting no.)

HB 257 - LAID ON THE TABLE SUBJECT TO CALL

Representative N. Gonzalez moved to lay **HB 257** on the table subject to call.

The motion prevailed.

**HB 346 ON SECOND READING
(by Deshotel)**

HB 346, A bill to be entitled An Act relating to the electronic storage of personal identification information obtained from driver's licenses or personal identification certificates.

HB 346 was passed to engrossment. (Flynn, Schaefer, and Simpson recorded voting no.)

**CSHB 671 ON SECOND READING
(by Ratliff, et al.)**

CSHB 671, A bill to be entitled An Act relating to the calculation of the rollback tax rate of a school district.

Amendment No. 1

Representative Ratliff offered the following amendment to **CSHB 671**:

Amend **CSHB 671** (house committee printing) by striking page 1, line 5, through page 3, line 5, and substituting the following:

SECTION 1. Section 26.08, Tax Code, is amended by adding Subsection (q) to read as follows:

(q) This subsection applies only to a school district described by Subsection (n) whose adopted tax rate was approved at an election under this section in the 2006 tax year or any subsequent tax year. Notwithstanding Subsection (n), for purposes of this section, the rollback tax rate of the school district is the higher of:

(1) the amount computed under Subsection (n); or

(2) the sum of the following:

(A) the highest maintenance and operations tax rate adopted by the district for the 2007 tax year or any subsequent tax year in which the adopted tax rate of the district was approved at an election under this section; and

(B) the district's current debt rate.

Amendment No. 2

Representative Farney offered the following amendment to Amendment No. 1:

Amend Amendment No. 1 by Ratliff to **CSHB 671** (house committee printing) as follows:

(1) Strike page 1, lines 1 and 2 and substitute the following:

Amend **CSHB 671** (house committee printing) as follows:

(1) Strike page 1, line 5, through page 3, line 5, and substitute the

(2) On page 1, line 5, strike "Subsection (q)" and substitute "Subsections (q) and (r)".

(3) On page 1, following line 18, add the following:

(r) Subsection (q) applies to a school district only if the district has adopted a tax rate equal to or higher than the rate provided by that subsection for any tax year in the preceding 10 tax years.

Amendment No. 2 was adopted.

Amendment No. 1, as amended, was adopted.

CSHB 671, as amended, was passed to engrossment by (Record 370): 114 Yeas, 27 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Ashby; Aycock; Bell; Bonnen, D.; Bonnen, G.; Branch; Burnam; Callegari; Canales; Clardy; Coleman; Collier; Cook; Cortez; Craddick; Creighton; Crownover; Dale; Darby; Davis, J.; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Farias; Farney; Farrar; Frank; Frullo; Geren; Giddings; Gonzales; González, M.; Gonzalez, N.; Gooden; Guerra; Gutierrez; Harless; Hernandez Luna; Herrero; Hilderbran; Howard; Huberty; Hunter; Johnson; Kacal; Keffer; King, K.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Larson; Lavender; Lewis; Longoria; Lozano; Lucio; Márquez; Martinez; Martinez Fischer; McClendon; Menéndez; Miles; Moody; Morrison; Muñoz; Murphy; Naishtat; Nevárez; Oliveira; Orr; Otto; Paddie; Parker; Patrick; Perez; Phillips; Pickett; Pitts; Price; Raney; Ratliff; Raymond; Reynolds; Riddle; Ritter; Rodriguez, E.; Rodriguez, J.; Rose; Sheets; Sheffield, J.; Sheffield, R.; Simpson; Smith; Stephenson; Strama; Thompson, E.; Thompson, S.; Turner, C.; Turner, S.; Villalba; Villarreal; Vo; Walle; Workman; Wu; Zerwas.

Nays — Anderson; Bohac; Burkett; Capriglione; Carter; Elkins; Fletcher; Flynn; Goldman; Hughes; Isaac; Klick; Krause; Laubenberg; Leach; Miller, R.; Perry; Sanford; Simmons; Smithee; Springer; Stickland; Taylor; Toth; Turner, E.S.; White; Zedler.

Present, not voting — Mr. Speaker; Davis, S.(C).

Absent, Excused — Fallon; Guillen; King, P.

Absent — Button; Harper-Brown; Miller, D.; Schaefer.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 370. I intended to vote no.

D. Bonnen

I was shown voting yes on Record No. 370. I intended to vote no.

Dale

I was shown voting yes on Record No. 370. I intended to vote no.

Gonzales

I was shown voting yes on Record No. 370. I intended to vote no.

Gooden

I was shown voting no on Record No. 370. I intended to vote yes.

R. Miller

When Record No. 370 was taken, I was in the house but away from my desk. I would have voted no.

Schaefer

BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, Senate List No. 18).

SB 297 ON SECOND READING (Flynn - House Sponsor)

SB 297, A bill to be entitled An Act relating to prepaid funeral benefits contracts.

SB 297 was considered in lieu of **HB 1489**.

SB 297 was passed to third reading. (Laubenberg, Phillips, Schaefer, Springer, Taylor, Toth, and White recorded voting no.)

HB 1489 - LAID ON THE TABLE SUBJECT TO CALL

Representative Flynn moved to lay **HB 1489** on the table subject to call.

The motion prevailed.

CSHB 1791 ON SECOND READING (by J. Davis, Lucio, Oliveira, Anderson, et al.)

CSHB 1791, A bill to be entitled An Act relating to the facilitation and operation of space flight activities in this state.

CSHB 1791 was passed to engrossment.

HB 3188 ON SECOND READING (by Otto)

HB 3188, A bill to be entitled An Act relating to directing payment, after approval, of certain miscellaneous claims and judgments against the state out of funds designated by this Act; making appropriations.

Amendment No. 1

Representative Bohac offered the following amendment to **HB 3188**:

Amend **HB 3188** by adding the following appropriately numbered SECTION to the bill:

SECTION _____. The following sum of money is appropriated out of the General Revenue Fund Account No. 0001 for payment of a claim made against the State of Texas:

To pay Ed Heimlich, the following amount payable only under terms of a conditional settlement agreement to be negotiated and approved by the Texas Attorney General and paid by the Comptroller of Public Accounts as restitution for wrongful imprisonment, \$1,086,457, plus interest, if any.

Amendment No. 1 failed of adoption.

HB 3188 was passed to engrossment. (Schaefer recorded voting no.)

CSHB 2836 ON SECOND READING**(by Ratliff, Farney, K. King, Patrick, Huberty, et al.)**

CSHB 2836, A bill to be entitled An Act relating to the requirements for and use of certain state-administered assessment instruments administered to public school students.

Amendment No. 1

Representative Lavender offered the following amendment to **CSHB 2836**:

Amend **CSHB 2836** (house committee printing) by striking page 1, line 6, through page 3, line 8, and substituting the following:

SECTION 1. Section 39.023(a), Education Code, is amended to read as follows:

(a) The agency shall adopt the Iowa Test of Basic Skills (ITBS) ~~[or develop appropriate criterion-referenced assessment instruments designed]~~ to assess essential knowledge and skills in reading, writing, mathematics, social studies, and science. All ~~[Except as provided by Subsection (a-2), all]~~ students, other than students assessed under Subsection (b) or (l) or exempted under Section 39.027, shall be assessed annually in grades three through eight using that assessment instrument;

~~[(1) mathematics, annually in grades three through seven without the aid of technology and in grade eight with the aid of technology on any assessment instrument that includes algebra;~~

~~[(2) reading, annually in grades three through eight;~~

~~[(3) writing, including spelling and grammar, in grades four and seven;~~

~~[(4) social studies, in grade eight;~~

~~[(5) science, in grades five and eight;]~~ and in

~~[(6)]~~ any other subject and grade as required by federal law.

SECTION 2. Sections 39.023(a-1) and (a-2), Education Code are repealed.

Representative Ratliff moved to table Amendment No. 1.

The motion to table prevailed.

Amendment No. 2

Representative Patrick offered the following amendment to **CSHB 2836**:

Amend **CSHB 2836** (house committee report) as follows:

(1) On page 1, line 11, strike "writing," and substitute "[~~writing,~~]".

(2) On page 1, line 12, strike "[~~social studies,~~]" and substitute "social studies,".

(3) On page 1, strike lines 19 through 24 and substitute the following:

~~[(3) [writing, including spelling and grammar, in grades four and seven;~~

~~[(4)]~~ social studies, in grade eight;

~~[(5)]~~ science, in grades five and eight; and

~~[(6)]~~ any other subject and grade required by federal law.

Amendment No. 2 was adopted.

Amendment No. 3

Representative Villarreal offered the following amendment to **CSHB 2836**:

Amend **CSHB 2836** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter B, Chapter 39, Education Code, is amended by adding Section 39.0263 to read as follows:

Sec. 39.0263. ADMINISTRATION OF DISTRICT-REQUIRED BENCHMARK ASSESSMENT INSTRUMENTS TO PREPARE STUDENTS FOR STATE-ADMINISTERED ASSESSMENT INSTRUMENTS. (a) In this section, "benchmark assessment instrument" means a district-required assessment instrument designed to prepare students for a corresponding state-administered assessment instrument.

(b) Except as provided by Subsection (c), a school district may not administer to any student more than two benchmark assessment instruments to prepare the student for a corresponding state-administered assessment instrument.

(c) The prohibition prescribed by this section does not apply to the administration of a college preparation assessment instrument, including the PSAT, the ACT-Plan, the SAT, or the ACT, an advanced placement test, an international baccalaureate examination, or an independent classroom examination designed or adopted and administered by a classroom teacher.

(d) A parent of or person standing in parental relation to a student who has special needs, as determined in accordance with commissioner rule, may request administration to the student of additional benchmark assessment instruments.

Amendment No. 3 was adopted. (White recorded voting no.)

CSHB 2836, as amended, was passed to engrossment. (Schaefer recorded voting no.)

SB 900 ON SECOND READING
(Wu - House Sponsor)

SB 900, A bill to be entitled An Act relating to the amounts of the administrative, civil, and criminal penalties for violating certain statutes under the jurisdiction of, rules or orders adopted by, or licenses, permits, or certificates issued by the Railroad Commission of Texas.

SB 900 was considered in lieu of **HB 1863**.

Amendment No. 1

Representatives Clardy and D. Bonnen offered the following amendment to **SB 900**:

Amend **SB 900** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 121.007, Utilities Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) A person who owns or operates ~~[operating]~~ a natural gas pipeline, a liquefied natural gas pipeline, or an underground storage facility is not a gas utility if the person certifies to the railroad commission that the person uses the pipeline or underground storage facility solely to deliver natural gas or liquefied natural gas or the constituents of natural gas or liquefied natural gas:

- (1) to a liquefied natural gas marine terminal;
- (2) from a liquefied natural gas marine terminal to the owner of the gas or another person on behalf of the owner of the gas;
- (3) that is acquired, liquefied, or sold by the person as necessary for the operation or maintenance of its facility that is excluded as a gas utility under this section; or
- (4) that has been stored for export.

(c) This section does not create an exception to the applicability of a pipeline safety requirement provided under this chapter or a penalty for a violation of such a requirement.

Amendment No. 1 was adopted.

SB 900, as amended, was passed to third reading. (Schaefer and Taylor recorded voting no.)

HB 1863 - LAID ON THE TABLE SUBJECT TO CALL

Representative Wu moved to lay **HB 1863** on the table subject to call.

The motion prevailed.

HB 996 ON SECOND READING (by Giddings)

HB 996, A bill to be entitled An Act relating to permitting electronic delivery of certain documents in a criminal case.

Representative Giddings moved to postpone consideration of **HB 996** until 11 a.m. Monday, May 6.

The motion prevailed.

HB 939 ON SECOND READING (by J. Davis)

HB 939, A bill to be entitled An Act relating to repealing the employment and training investment assessment; changing the rate of certain unemployment taxes.

Representative J. Davis moved to postpone consideration of **HB 939** until the end of today's calendar.

The motion prevailed.

HB 1762 ON SECOND READING (by Price)

HB 1762, A bill to be entitled An Act relating to workers' compensation and other remedies available to an injured temporary employee.

Amendment No. 1

Representative Price offered the following amendment to **HB 1762**:

Amend **HB 1762** (house committee printing), on page 1 of the bill, between lines 21 and 22, by inserting the following:

(c) An employee's election under Section 406.034(b) made with respect to the temporary employment service applies to any client of the temporary employment service, and the employee may not make a separate election under that section with respect to the client.

Amendment No. 1 was adopted.

HB 1762, as amended, was passed to engrossment.

SB 966 ON SECOND READING
(Perry - House Sponsor)

SB 966, A bill to be entitled An Act relating to creation of the Judicial Branch Certification Commission and the consolidation of judicial profession regulation; imposing penalties; authorizing fees.

SB 966 was considered in lieu of **HB 3790**.

SB 966 was passed to third reading. (Schaefer, Simpson, and Toth recorded voting no.)

HB 3790 - LAID ON THE TABLE SUBJECT TO CALL

Representative Perry moved to lay **HB 3790** on the table subject to call.

The motion prevailed.

HB 394 ON SECOND READING
(by S. Thompson)

HB 394, A bill to be entitled An Act relating to limits on prizes for bingo games.

HB 394 was passed to engrossment.

HB 2811 ON SECOND READING
(by Toth, et al.)

HB 2811, A bill to be entitled An Act relating to programs provided by volunteer organizations to inmates in the Texas Department of Criminal Justice.

Amendment No. 1

Representative Toth offered the following amendment to **HB 2811**:

Amend **HB 2811** (house committee printing) as follows:

(1) On page 1, line 7, between "VOLUNTEER" and "ORGANIZATIONS" insert "AND FAITH-BASED".

(2) On page 1, line 9, strike "and faith-based" and substitute "and faith-based".

Amendment No. 1 was adopted.

HB 2811, as amended, was passed to engrossment.

CSSB 1730 ON SECOND READING
(Phillips - House Sponsor)

CSSB 1730, A bill to be entitled An Act relating to comprehensive development agreements of the Texas Department of Transportation or a regional mobility authority.

CSSB 1730 was considered in lieu of **HB 3391**.

Amendment No. 1

Representative Phillips offered the following amendment to **CSSB 1730**:

Amend **CSSB 1730** (house committee printing) as follows:

- (1) On page 3, strike lines 16-17.
- (2) On page 3, line 18, strike "(12)" and substitute "(11)".
- (3) On page 3, line 20, strike "(13)" and substitute "(12)".

Amendment No. 1 was adopted.

Amendment No. 2

Representative Pickett offered the following amendment to **CSSB 1730**:

Amend **CSSB 1730** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 223.202, Transportation Code, is amended to read as follows:

Sec. 223.202. LIMITATION ON DEPARTMENT FINANCIAL PARTICIPATION. (a) The amount of money disbursed by the department from the state highway fund and the Texas mobility fund during a federal fiscal year to pay the costs under comprehensive development agreements may not exceed 40 percent of the obligation authority under the federal-aid highway program that is distributed to this state for that fiscal year.

(b) The department may not increase the amount of money allocated for a project that is the subject of a comprehensive development agreement above the amount allocated for the project in the department's unified transportation program.

Amendment No. 2 was adopted.

Amendment No. 3

Representatives Hilderbran and D. Miller offered the following amendment to **CSSB 1730**:

Amend **CSSB 1730** (house committee printing) as follows:

- (1) On page 3, line 19, strike "and".
- (2) On page 3, line 22, between "37" and the period insert:

; and

(14) the State Highway 16 widening project between Fredericksburg and Kerrville in Gillespie and Kerr Counties

Amendment No. 3 was adopted.

(Speaker pro tempore in the chair)

Amendment No. 4

Representative McClendon offered the following amendment to **CSSB 1730**:

Amend **CSSB 1730** (house committee printing) as follows:

- (1) On page 6, line 4, between "54;" and "and" insert:
 (6) the Loop 1604 project in Bexar County;
- (2) On page 6, line 5, strike "(6)" and substitute "(7)".

Amendment No. 4 was adopted.

CSSB 1730, as amended, was passed to third reading. (Kleinschmidt, Kolkhorst, Laubenberg, Schaefer, and Simpson recorded voting no; Creighton recorded voting present, not voting.)

HB 3391 - LAID ON THE TABLE SUBJECT TO CALL

Representative Phillips moved to lay **HB 3391** on the table subject to call.

The motion prevailed.

HB 1548 ON SECOND READING
(by Callegari and Parker)

HB 1548, A bill to be entitled An Act relating to the effect of certain agreements with a collective bargaining organization on certain state-funded public work contracts.

HB 1548 was passed to engrossment by (Record 371): 89 Yeas, 54 Nays, 2 Present, not voting.

Yeas — Anderson; Ashby; Aycock; Bell; Bonnen, G.; Branch; Burkett; Button; Callegari; Capriglione; Carter; Clardy; Cook; Craddick; Creighton; Crownover; Dale; Darby; Davis, J.; Davis, S.; Elkins; Farney; Fletcher; Flynn; Frank; Frullo; Geren; Goldman; Gonzales; Gooden; Harless; Harper-Brown; Hilderbran; Huberty; Hughes; Hunter; Isaac; Kacal; Keffer; King, K.; King, S.; Kleinschmidt; Klick; Kolkhorst; Krause; Kuempel; Larson; Laubenberg; Lavender; Leach; Lewis; Lozano; Miller, D.; Miller, R.; Morrison; Murphy; Orr; Otto; Paddie; Parker; Patrick; Perry; Phillips; Pitts; Price; Raney; Ratliff; Riddle; Ritter; Sanford; Schaefer; Sheets; Sheffield, J.; Sheffield, R.; Simmons; Simpson; Smith; Smithee; Springer; Stephenson; Taylor; Thompson, E.; Toth; Turner, E.S.; Villalba; White; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Anchia; Burnam; Canales; Coleman; Collier; Cortez; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Farias; Farrar; Giddings; González, M.; Gonzalez, N.; Guerra; Gutierrez; Hernandez Luna; Herrero; Howard; Johnson; King, T.; Longoria; Lucio; Márquez; Martinez; Martinez Fischer; McClendon; Menéndez; Miles; Moody; Muñoz; Naishtat; Nevárez; Oliveira; Perez; Pickett; Raymond; Reynolds; Rodriguez, E.; Rodriguez, J.; Rose; Strama; Thompson, S.; Turner, C.; Turner, S.; Villarreal; Vo; Walle; Wu.

Present, not voting — Mr. Speaker; Bonnen, D.(C).

Absent, Excused — Fallon; Guillen; King, P.

Absent — Bohac; Stickland.

CSHB 885 ON SECOND READING

(by Murphy, Harper-Brown, Ratliff, Huberty, et al.)

CSHB 885, A bill to be entitled An Act relating to the guarantee of refinanced open-enrollment charter school bonds by the permanent school fund.

CSHB 885 was passed to engrossment.

HB 1231 ON SECOND READING

(by Giddings)

HB 1231, A bill to be entitled An Act relating to the application of the offenses of disrupting public school classes or transportation to persons younger than 12 years of age.

HB 1231 was passed to engrossment.

HB 1310 ON SECOND READING

(by Button, Bohac, N. Gonzalez, Paddie, Eiland, et al.)

HB 1310, A bill to be entitled An Act relating to the exclusion from total revenue of the cost of certain vaccines for purposes of the franchise tax.

HB 1310 was passed to engrossment.

RESOLUTIONS CALENDAR

The chair laid before the house the following resolutions on committee report:

HCR 1

(by Branch, Frullo, and Hilderbran)

HCR 1, Directing the Texas Facilities Commission to rename the State Insurance Building Annex in the Capitol Complex the John G. Tower State Office Building.

HCR 1 was adopted by (Record 372): 141 Yeas, 1 Nays, 3 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Ashby; Aycock; Bell; Bohac; Bonnen, G.; Branch; Burkett; Burnam; Button; Callegari; Canales; Capriglione; Carter; Clardy; Coleman; Collier; Cook; Cortez; Craddick; Creighton; Crownover; Dale; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Dukes; Eiland; Elkins; Farias; Farney; Farrar; Fletcher; Flynn; Frank; Frullo; Geren; Giddings; Goldman; Gonzales; González, M.; Gonzalez, N.; Gooden; Guerra; Gutierrez; Harless; Harper-Brown; Hernandez Luna; Herrero; Hilderbran; Howard; Huberty; Hughes; Hunter; Isaac; Kacal; Keffer; King, K.; King, S.; King, T.; Kleinschmidt; Klick; Kolkhorst; Krause; Kuempel; Larson; Laubenber; Lavender; Leach; Lewis; Longoria; Lozano; Lucio; Márquez; Martinez; Martinez Fischer; McClendon; Miles; Miller, D.; Miller, R.; Moody;

Morrison; Muñoz; Murphy; Naishtat; Nevárez; Oliveira; Orr; Otto; Paddie; Parker; Patrick; Perez; Perry; Phillips; Pickett; Pitts; Price; Raney; Ratliff; Raymond; Reynolds; Riddle; Ritter; Rodriguez, E.; Rodriguez, J.; Rose; Sanford; Schaefer; Sheets; Sheffield, J.; Sheffield, R.; Simmons; Simpson; Smith; Smithee; Springer; Stephenson; Stickland; Strama; Taylor; Thompson, E.; Thompson, S.; Toth; Turner, C.; Turner, E.S.; Turner, S.; Villalba; Vo; Walle; White; Workman; Wu; Zedler; Zerwas.

Nays — Johnson.

Present, not voting — Mr. Speaker; Bonnen, D.(C); Dutton.

Absent, Excused — Fallon; Guillen; King, P.

Absent — Menéndez; Villarreal.

STATEMENT OF VOTE

I was shown voting yes on Record No. 372. I intended to vote no.

Giddings

POSTPONED BUSINESS

The following bills were laid before the house as postponed business:

(Speaker in the chair)

CSHB 11 ON SECOND READING

(by Ritter, Larson, P. King, Pitts, Creighton, et al.)

CSHB 11, A bill to be entitled An Act relating to the appropriation of money from the economic stabilization fund to finance certain water-related projects.

CSHB 11 was read second time earlier today and was postponed until this time.

CSHB 11 - REMARKS

REPRESENTATIVE TAYLOR: Just so I understand the legislation that you laid out in **HB 4**, is it your intention that **HB 4** is a sinking fund? That the balance declines over time and ultimately goes away, or is it a revolving fund that will be here for the future?

REPRESENTATIVE RITTER: Mr. Taylor, this bill is not **HB 4**, this is **HB 11**. This is about taking money out of the rainy day fund, sir.

TAYLOR: Sure, but this funds that, so I think that is important, right? I mean, that's what you just talked about. That was your whole layout, right—was this bill funds that? So I'm just trying to understand what that is—that is a revolving fund that intends to be here for the future?

RITTER: It is a revolving fund, sir.

TAYLOR: Is it intended to be here for the future?

RITTER: I'm sorry, Van. Say that again?

TAYLOR: Is the SWIFT—designed by you, written by you, authored by you, voted on in this house—designed to be a revolving fund that will be here in the future?

RITTER: Yes, it is designed to be a revolving fund.

TAYLOR: Is it designed to be here in the future?

RITTER: Yes.

REPRESENTATIVE WALLE: Just a few questions, particularly on the HRO report. It mentions the debt service and loan repayment programs and non-self-supporting general revenue assistance. If we're not going to—if we don't pass the \$2 billion appropriation for this or the tapping of this fund, in the long term would it also be issuing more debt to the state budget?

RITTER: Only if we—

WALLE: Do not pass it?

RITTER: Allow—or appropriate GR related to those projects. What I mean is, if the bonding is one part of the package, kind of like tied into a credit line for us, but if we do not appropriate money for the water development board and the state water plan then they can't go do these projects because they don't have the cash to either do the incentives on an interest rate buy down, or a state participation, or any one of those type things. But, if we don't appropriate money, it's not going to happen at all.

WALLE: It's not going to happen. The only other issue would be by appropriating, or having the ability to have access to these \$2 billion, are we incurring more debt in the future for future Texans with the passage of this?

RITTER: Not any more than if we weren't. They're tied together and if the \$2 billion that we are talking about doing is the seed capital for the infrastructure bank—and the reason we're doing that is because for the last 15, 16 years, the legislature never stands up and funds water planning. We've been, since **SB 1** in 1997, trying to find a secured source of funding in order to get these projects done. We haven't done that. We've not done our job. This is about getting \$2 billion as one-time seed capital, sticking it into an infrastructure bank that revolves—that will allow the state to participate in \$27 billion worth of projects that will end up being \$53 billion worth of projects in all of our neighborhoods. That's what it's about folks. It's not magic.

WALLE: And this bill would not exceed \$6 billion, is that my understanding? That you would have access to—

RITTER: This bill is about moving \$2 billion from the rainy day fund to the SWIFT infrastructure bank, sir.

WALLE: Okay, so we're creating a whole new entity with this SWIFT mechanism to be able to finance some of these—actually the 50-plus billion dollars in water assistance that we need, or water projects?

RITTER: Yes, to do the state's participation part. In the state water plan, all the regions have come together and said we need about 600 and I can't remember how many projects that total in the pro forma of about \$53 billion and what they have asked for the state to do and the help equates to \$27 billion. So, this is about how do we find, over the critical path of the next 50 years, \$27 billion? The way we're going to do it is a one-time seed capital investment of \$2 billion into an infrastructure bank that revolves, tying in with either our general obligations bonds that the authority we were given in 2011—November of 2011, and possibly and additionally revenue bonds.

WALLE: And these—the Texas Treasury Safekeeping Trust Company, this entity, or this new bank, who are they going to be accountable to? To the legislature or to—how do we control—to keep them accountable to the taxpayers?

RITTER: If you'll remember from **HB 4**, the safekeeping trust is an entity that is—I can't remember, Mr. Walle, how long it's actually been around, but they're, if I remember right, they actually have an investment portfolio for the State of Texas of about \$53 billion which includes the asbestos fund, different things like that. So, they've been doing this for some time, they do an extremely good job, they answer or they work with—through the comptroller's office, as they do with the other plans that they are managing.

REPRESENTATIVE CAPRIGLIONE: Mr. Chairman, I wanted to ask, when we talk about the \$2 billion, we call that a corpus, that's the basic, the principle amount that we start with our investment—after two years, how much of that corpus has gone away?

RITTER: That really depends on how much they've loaned out.

CAPRIGLIONE: Okay, well I've seen some models, I saw one model today—so just in some of the baseline models, approximately how much of the corpus is down?

RITTER: If you have the models, you can look. I don't have them here, and I can't remember, sir.

CAPRIGLIONE: Okay. I think I saw about \$160 million for two years. I looked, and at about 10 years out, it's about \$500 million. Do you think that's about within the ballpark, \$500 million of the \$2 billion of the corpus?

RITTER: In 10 years, I think it's going to be much more than that. I think that's what the modeling shows, but what I believe is going to happen when we develop this mechanism, that you're going to see these projects coming to the water development board with loan agreements to be looked at—I think it gets a real kick in the you-know-what.

CAPRIGLIONE: So you don't think the modeling is accurate?

RITTER: I think the modeling is pretty accurate for what we know the four corners of the state water plan are today. And whatever it is you do, your management through the modeling of what your state water plan is, what your requests are, the process is not like you're going to the banks and asking for a

90-day loan or an auto loan or such. This is a process that these entities are going to be working with the water development board for quite some time, and the modeling is what the modeling is. And in order to—you're managing your investment strategy portfolio, you're managing your loan portfolio, and it all ties together, and the modeling helps you determine the type of, how much you're going to be loaning. If you get a couple of years where you get a lot more loans out quickly, then that modeling, you would assume, would change somewhat.

CAPRIGLIONE: Okay. Now if I remember right, in the model it showed that there was about a 20 percent loan loss rate? If I recall correctly, I'm not sure if I do, was there a 20 percent loss loan rate in that model? And for the members, a loan loss rate is what percentage of the loans that are given out that are expected to not be paid back.

RITTER: I believe in some of the modeling there was 20 percent, up to a 1.2 ratio, which that'd be correct, I think in some others—I think we did 500 different models, Bill, or something like that? Yes.

CAPRIGLIONE: So basically, if the 20 percent loan loss rate in the model is accurate, one out of every five loans won't pay back, is that what that means, for the members to know that?

RITTER: That means 20 percent of the loan portfolio—

CAPRIGLIONE: Mr. Chairman, I have another question. So let's say we go down the path of—

RITTER: Do you want me to finish answering about the loan loss?

CAPRIGLIONE: Yeah, sure.

RITTER: Okay, the water development board in Texas has never had a loan loss. We did figure a percentage of loan loss in that because that's just smart, good conservative thinking. Again, I want to reiterate that, look, these are captive customers; these are the City of Dallas, the City of Houston, different river authorities, the Trinity River Authority, all these entities. These are entities that—it's not like a regular banking business, or in my company where I might possibly be loaning some money to somebody.

CAPRIGLIONE: You're absolutely right, so that would actually be my next question, which is if the \$2 billion is invested over the period of time, how much more debt, including cities, municipalities, state, and so on, does this incur at the highest maximum? In other words, the goal of this is to go and pay for some PIC, to pay for some deferred payments, so as the \$2 billion goes in, we're going to be incurring more and more debt—whether that's city, municipalities, and so on—so I was wondering if you could let me know how much total debt this project will incur at its highest point.

RITTER: That depends on the overall projects. Right now, if you're talking about everything, I would say the number would be the \$53 billion, or close to it, statewide with every entity.

CAPRIGLIONE: Okay, so just to recap, because I want to make sure I understand, the goal of this bill is to—besides investing in projects, which are worthwhile—but the net result is about \$53 billion in debt. We've estimated 20 percent of the loans going into default, and we think that will only put in about \$300 million over the next few years. I wanted to ask another question, because I've heard this asked a few different ways, but I'd like to get your opinion, or the chair's—

RITTER: You're asking about local debt, and everything?

CAPRIGLIONE: That's right, total debt.

RITTER: I don't have that number.

CAPRIGLIONE: Okay, so you didn't include local debt in that \$50 billion, or you did?

RITTER: No, the \$53 billion—what I told you was the total projected cost of all the projects in the four corners of the state water plan today.

CAPRIGLIONE: Okay, now I have another question, which is, when we talk about the dollars in the rainy day fund—and I'm going through an article that I'm trying to remember from December or January of this year or last year—dollars that are used from the rainy day fund, do we believe today that those dollars count toward the spending cap? As it is now, without making any changes to laws or statutes, or amendments in this or future—

RITTER: Are you asking me if dollars today, in **HB 11**, count against the spending cap?

CAPRIGLIONE: Well, no, I guess, because **HB 11** might have some terminology—I guess what I'm asking is if dollars come out of the rainy day fund into a bank that then goes and buys everything from pipe fitting, to sewers, to electricity and so on, does that count as spending money or not spending money?

RITTER: I count it as an investment. We have an investment, and we're making loans to basically quasi-governmental entities ourselves throughout the State of Texas.

CAPRIGLIONE: So then, I guess, help me remember, what did I read in January or December, that the LBB had met, and that it was their opinion that it was spending—

RITTER: I don't know, you'd need to go look it up.

CAPRIGLIONE: Okay, so right now, what you're saying is that these dollars, no matter where it is, do not count towards spending, is that right? It doesn't count towards the spending cap?

RITTER: You're asking me if these dollars count towards the spending cap—my personal opinion? I do not think they do. I think that this is cash that we are putting into an investment strategy, sir, and it should not be counted against the spending cap.

CAPRIGLIONE: And I respect and appreciate your opinion. Is there an official opinion? I mean, is there—

RITTER: I would imagine, when we get closer to the conference committee on the budget and such, that that will be told to us.

CAPRIGLIONE: So, we have to vote for it before we find out whether it's worth it, before it counts or not?

RITTER: Well yeah, it's not all finished.

CAPRIGLIONE: All right, thank you.

REMARKS ORDERED PRINTED

Representative Taylor moved to print remarks between Representative Ritter and Representative Taylor.

The motion prevailed.

Amendment No. 1

Representatives Ritter, Simmons, and Creighton offered the following amendment to **CSHB 11**:

Amend **CSHB 11** (house committee printing) as follows:

(1) On page 1, between lines 13 and 14, insert the following:

SECTION 2. (a) If the state water implementation fund for Texas is created by legislation enacted by the 83rd Legislature, Regular Session, 2013, the amount of \$2 billion is appropriated for the state fiscal biennium beginning September 1, 2013, from the general revenue fund to the comptroller for the purpose of depositing that amount to the credit of the state water implementation fund for Texas as money held and invested by the Texas Treasury Safekeeping Trust Company and available for use by the Texas Water Development Board for the purposes of the state water implementation fund for Texas.

(b) Each item of appropriation for the state fiscal biennium beginning September 1, 2013, made from undedicated money in the general revenue fund by an Act of the 83rd Legislature, Regular Session, for which the specific amount of the appropriation may be ascertained as of September 1, 2013, is hereby reduced proportionally in a total amount equal to the amount of the appropriation made by Subsection (a) of this section. Not later than October 1, 2013, the legislative budget board shall determine and certify to the comptroller and to the entity to which the appropriation is made the amount of each reduction in an item of appropriation made by this subsection.

(2) Strike SECTION 2 of the bill and substitute the following appropriately numbered SECTION:

SECTION _____. (a) If this Act receives a vote of at least two-thirds of the members present in each house of the legislature, as provided by Section 49-g(m), Article III, Texas Constitution:

(1) Section 1 of this Act takes effect September 1, 2013; and

(2) Section 2 of this Act does not take effect.

(b) If this Act does not receive the vote prescribed by Subsection (a) of this section:

- (1) Section 2 of this Act takes effect September 1, 2013; and
- (2) Section 1 of this Act does not take effect.

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 1).

CSHB 11 - (consideration continued)

REMARKS ORDERED PRINTED

Representative Capriglione moved to print remarks between Representative Ritter and Representative Capriglione.

The motion prevailed.

Representative Taylor moved to print remarks between Representative Walle and Representative Ritter.

The motion prevailed.

(Speaker pro tempore in the chair)

Amendment No. 2

Representative Martinez Fischer offered the following amendment to Amendment No. 1:

Amend Amendment No. 1 by Ritter to **CSHB 11** (house committee printing) by adding the following appropriately numbered item to the amendment and renumbering subsequent items accordingly:

(____) Add the following appropriately numbered SECTION to the bill and renumber subsequent SECTIONS of the bill accordingly:

SECTION _____. The amount appropriated by this Act from the general revenue fund is in addition to the other amounts proposed to be appropriated from the general revenue fund by Articles II, III, and IX, **SB 1**, Acts of the 83rd Legislature, Regular Session, 2013, as of April 8, 2013. If the actual amount proposed to be appropriated from the general revenue fund by any of those articles of the bill as finally enacted by the legislature is less than the proposed amount as of April 8, 2013, the appropriation from the general revenue fund under this Act has no effect, notwithstanding the effective date provision of this Act.

Amendment No. 1 - Point of Order

Representative S. Turner raised a point of order against further consideration of Amendment No. 1 under Rule 8, Section 3 of the House Rules on the grounds that Amendment No. 1 violates the one-subject rule.

The chair overruled the point of order and submitted the following statement:

Representative S. Turner raised a point of order against further consideration of Amendment No. 1 to **CSHB 11** under Rule 8, Section 3 of the House Rules. Because Representative Turner's complaint goes not to the bill, but rather to the

amendment offered, it is presumed that he was also arguing under Rule 11, Section 2 of the House Rules. Representative S. Turner argued that **CSHB 11** is a narrow one-subject bill that appropriates money from the economic stabilization fund to fund water. Because the bill has a single subject, the point of order under Rule 8, Section 3 of the House Rules is overruled. He asserts that Amendment No. 1 violates Rule 8, Section 3 and Rule 11, Section 2 of the House Rules by allowing an option to fund water using general revenue. That point of order is also respectfully overruled.

The amendment's provision that water could be funded from general revenue on the condition that the bill did not receive the requisite votes to use economic stabilization funds was incidental to carrying out **CSHB 11**'s purpose of funding water. Because the amendment was consistent with this single subject and did not impermissibly expand the bill by providing an alternative funding source, other than the economic stabilization fund, that was incidental to the main proposition of the bill, it would not have introduced a distinct subject into the bill and, therefore, was not out of order. See 45 H.J. Reg. 458 (1937).

Representative Creighton moved to table Amendment No. 2.

The motion to table prevailed by (Record 373): 88 Yeas, 56 Nays, 3 Present, not voting.

Yeas — Anderson; Ashby; Aycock; Bell; Bohac; Bonnen, G.; Branch; Burkett; Button; Callegari; Capriglione; Carter; Clardy; Cook; Craddick; Creighton; Crownover; Dale; Darby; Davis, J.; Davis, S.; Elkins; Farney; Fletcher; Flynn; Frank; Frullo; Geren; Goldman; Gonzales; Gooden; Harless; Harper-Brown; Hilderbran; Huberty; Hughes; Hunter; Isaac; Kacal; Keffer; King, K.; King, S.; Kleinschmidt; Klick; Kolkhorst; Krause; Kuempel; Larson; Laubenberg; Lavender; Leach; Lewis; Miller, D.; Miller, R.; Morrison; Murphy; Orr; Otto; Paddie; Parker; Perry; Phillips; Pitts; Price; Raney; Ratliff; Riddle; Ritter; Sanford; Schaefer; Sheets; Sheffield, J.; Sheffield, R.; Simmons; Smith; Smithee; Springer; Stephenson; Stickland; Taylor; Thompson, E.; Toth; Turner, E.S.; Villalba; White; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Anchia; Burnam; Canales; Coleman; Collier; Cortez; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Farias; Farrar; Giddings; González, M.; Gonzalez, N.; Guerra; Gutierrez; Hernandez Luna; Herrero; Howard; Johnson; King, T.; Longoria; Lozano; Lucio; Márquez; Martinez; Martinez Fischer; McClendon; Menéndez; Miles; Moody; Muñoz; Naishtat; Nevárez; Oliveira; Perez; Pickett; Raymond; Reynolds; Rodriguez, E.; Rodriguez, J.; Rose; Simpson; Strama; Thompson, S.; Turner, C.; Turner, S.; Villarreal; Vo; Walle; Wu.

Present, not voting — Mr. Speaker; Bonnen, D.(C); Patrick.

Absent, Excused — Fallon; Guillen; King, P.

Amendment No. 3

Representative Dutton offered the following amendment to Amendment No. 1:

Amend Floor Amendment No. 1 to **CSHB 11** (house committee printing) by Ritter on page 2 of the amendment, immediately following the period on line 1, by adding:

In making the proportional reductions in appropriations as provided by this subsection, each item of appropriation related to public education shall be excluded.

AMENDMENT NO. 3 - REMARKS

REPRESENTATIVE DUTTON: The discussion here has centered around whether or not we are going to have a disproportionate reduction in, for example, public education. The fact of the matter, members, is that for every dollar we spend in the budget, we spend on average 38 cents of it on public education. That happens to be the largest expenditure in the budget. And so, if we are going to apply these cuts to the budget, clearly then a fairly significant cut will be had again in public education. What this amendment does is, it doesn't stop the cuts, it just simply says that public education will be excluded from any of those cuts. Now, I was sitting here thinking, you know, the elephant in the room—and that's no pun intended—is the fact that there is not the ability to get the number of votes in order to tap into the rainy day fund. And the reason is that there are people here on this house floor who believe that it's just as important to take money and put it into public education as it is to fund the water project.

There is something worse than having water problems. One of them is having ignorance problems. And so if we really want to make this work, rather than doing it backward we would do it forward, and that is add education to the ability to take money away from the rainy day fund, instead of just limiting it, at this point, to water. Now, being from Houston, I can tell you that we sure have our share of issues related to water. We sometimes get all of our annual rainfall almost in one weekend, for example, like we did this past weekend. But we have some other problems too, related to public education, that we don't need to sit in this chamber and assume that because we cannot get the votes for water that means we ought to have an attack on public education. This amendment prohibits and prevents that.

REPRESENTATIVE S. TURNER: Tell me again, Representative Dutton, exactly what is your amendment is doing?

DUTTON: My amendment—the way I understand the amendment by Mr. Creighton is that, to the extent that they don't get the votes to take the money out of the rainy day fund, to place into this bill they will take it from GR, essentially, and proportionately apply all the cuts to all the items in the discretionary part of the budget. What this amendment does, it says, "Wait a minute, we can still do that, but we're not going to touch public education."

S. TURNER: So, the effect of your amendment is to make sure that the money that we have invested in public education stays in public education.

DUTTON: Absolutely. And the reason for that I think is, you know, we don't need to pit water against education, which is what this amendment does—Mr. Creighton's amendment does. It pits—our choice is to solve our water problems and throws that over into creating problems for public education. I think that's wrong headed, I think what we ought to do is—if we're going to take money from the rainy day fund to do water, we certainly ought to recognize there are some other issues that are equally as important as water, like education, and be prepared to take the money from there as well. But when we start to pit water against education, I think we do ourselves a disservice and we have to be a lot smarter than that.

S. TURNER: Representative Dutton, I want to—so that I'm clear, when we started this session, we had underfunded education from what we did last session?

DUTTON: Yes. Correct.

S. TURNER: And up to this point in time, let's say we put the \$2.5 billion back in education on Friday—

DUTTON: And then another \$500 million.

S. TURNER: But there's still 160,000 kids that are in the school system from last time that we have not provided adequate funding for, correct?

DUTTON: Absolutely, and that's the reason why I don't want us to go back on that again by adopting the Creighton amendment without my amendment to his amendment.

S. TURNER: So is the effect of your amendment is to say that whatever they have to do after the session, that people cannot reduce the monies that we have put into public schools in this session?

DUTTON: Absolutely. And certainly not to have it be the vehicle by which—we reduce it to pay for the water problem, because then we're essentially trading one problem for another one and trying to pit two entities that both need our immediate attention to the point where we're going to, somehow or another, fix one problem and create a bigger hole in another entity in this state. I just think we're smarter than that, Mr. Turner.

S. TURNER: So, in essence your amendment is saying that if we meant what we did when we put money into public schools, your amendment will protect that investment in our public schools.

DUTTON: At least for now. And I think what we have to do now is we have to protect that, because we've had a long fight back. We recognized that the cuts in public education have immediate effects on the way Texas' future is impacted. I mean, there's no question about that. We realized that, we experienced that, which is why I think when most of us came here at the start of the session, we had in mind to start to put back the money that we had taken away from public education. And here we are today, though, going back again on that commitment by deciding that, wait a minute, we're going to now rob the children of Texas to pay for water in Texas.

S. TURNER: I want to thank you for bringing the amendment that would protect the funding that we've given to public schools.

DUTTON: Well, thank you Mr. Turner. I just don't believe that the answer to our water problem lies in solving it by robbing the children of Texas from an education they truly deserve. I don't think that gets us anywhere. I mean, in my way of thinking, I just don't see how we could leave here this session, go home, and tell people we made Texas a better place because we took care of the water problem, but in the process what we did is we stole the money from the children of Texas to pay for it. And so that's why I offer this amendment, Mr. Speaker and members.

REPRESENTATIVE CREIGHTON: Nobody's robbed anybody here. If there's a commitment to the children of Texas and public schools in funding to the tune of \$5 billion we've already put back into public schools, if that commitment rings true, and if that commitment is united across this floor, then the decision today is to vote for the bill, and to acknowledge the rainy day fund—the ESF—is the direction you prioritize as you protect public school funding to make sure we solve long-term water supply for the state. Because those very kids, their parents, and their families, and our communities are dependent on the decision we make today.

S. TURNER: You're opposed to the amendment by Representative Dutton that would protect our funding we've already made to public schools?

CREIGHTON: I'm opposed to picking and choosing, instead of an across-the-board small reduction that would take the place of your decision to prevent the rainy day fund from being used for this purpose.

S. TURNER: Representative Creighton, did you vote for the appropriations bill that left the floor?

CREIGHTON: I did, and I'll have my chance to make my final decision on the actual budget when it comes back to the floor, including the public education dollars that are in it. But we can't determine that today.

S. TURNER: Was it the intention of your vote that the \$2.5 billion for public schools to stay in the bill? Was that your intent?

CREIGHTON: When a docket and a calendar are set, we make our decisions, and my intention today on the bill that's before us—and, again, we have to restrict our debate to the matter at hand and the measure that's before us on this floor.

S. TURNER: I understand, and do you think—

CREIGHTON: And my decision is to commit to water today, and we can all do that by getting behind Chairman Ritter.

S. TURNER: Do you believe that water, on the floor of this house today, has a greater precedence or higher priority than the financial support we have given to our schools this session?

CREIGHTON: I believe that they are coupled, and we cannot consider either in a vacuum.

S. TURNER: Do you believe that water is the number one, that water has a higher priority over the monies we have invested in our schools in this legislative session?

CREIGHTON: I believe—

S. TURNER: Yes or no?

CREIGHTON: I believe that they are coupled together.

S. TURNER: Do you believe that we should take monies away, that we have appropriated in this legislative session, from our schools to give to water?

CREIGHTON: I believe that if we don't commit to water and long-term solutions, we will kill our tax base. We will negatively affect our communities, our schools, and our funding to our schools is tied to all of that, and it is irrefutable that those can be separated.

S. TURNER: I got that, Representative Creighton. I'm just asking for a simple answer. Is it your belief that we should take money away from the schools—the monies that we have appropriated in this legislative session—and give that money to water? Yes or no? I'm not trying to trick you. I'm just trying to find out what you're asking us to do.

CREIGHTON: Chairman Turner, I support Chairman Ritter's bill to use the ESF.

S. TURNER: Do you believe—

CREIGHTON: So that is my number one goal.

S. TURNER: Do you believe that we have put too much money in schools in this legislative session? Do you believe that we have over-funded the schools?

CREIGHTON: I believe that the \$5 billion we've restored, and the budget that we've voted on and we've sent to be negotiated with the senate will come back, and I will have a final decision on what I think and what I don't think the commitment should be on each driver or each article in that budget. But, today, we are talking about an opportunity, and this opportunity on making a decision to fund our water plan is paramount, and our schools are dependent upon that.

S. TURNER: Now, our schools are certainly dependent on us being, providing the support to them. The question that I'm asking you—are the dollars that we've appropriated for our schools, should those dollars remain with our schools?

CREIGHTON: The \$55 billion we've put into education is a strong and firm commitment. The money that we've restored is a heavy commitment—

S. TURNER: Now Representative Creighton, I don't know what history you're rewriting, but in the last legislative session, we've reduced \$5.4 billion, and this legislative session we've started with two and we added another 2.5. We then added another \$500 million that is going on this biennium; not on the next.

CREIGHTON: Correct.

S. TURNER: Roughly, by my math, we are still close to \$6 billion down if you just want to look at the numbers. Now, if you want to talk numbers, I'll talk numbers with you all day long, but this rhetorical rhetoric that we've overfunded schools is just not factual.

CREIGHTON: I never said we overfunded. I said, the same number you did. Two, 2.5, and \$500 million is \$5 billion. And I've referenced that's where we're at—

S. TURNER: And I would contend to you that we are still short. Now, having said that, is it your position, and those who will be voting for your amendment, that we have put too much money in education, and we need to take back some of the money we voted on for education and put it into water? Yes or no?

CREIGHTON: Chairman Turner, it's a no, because my goal with my amendment would have specifically mentioned public education for the reduction if that would've been my goal.

S. TURNER: You recognize, when you're asking people to table this amendment, that you're saying to LBB that you can reduce the monies that we have allocated, over-allocated to our schools—you can reduce the money to our schools in order to give it to water? You know that's what you're saying when you're asking people to table this amendment?

CREIGHTON: That's not what I'm saying.

S. TURNER: No, no, no—that's probably what you don't want people to think you're saying, but the reality is, when you ask people to table Representative Dutton's amendment, you are authorizing—you are giving the LBB the authority—to reduce the dollars to public schools and give those dollars to water.

CREIGHTON: That's not correct.

S. TURNER: Then why are you seeking to table representative Dutton's amendment? And Representative Dutton's amendment simply says that whatever money we've committed to education, that money cannot be touched after we leave in this legislative session.

CREIGHTON: My amendment does not pick winners and losers—

S. TURNER: You're picking water.

CREIGHTON: The amendment that Chairman Dutton has placed before us does. And so, because I do not want to affect the troopers and any other driver within the budget that could be affected in an impartial way, my amendment is drafted to be impartial. Picking winners and losers and filing amendments to exclude every article of our budget, everyone knows the goal there is to gut my amendment.

S. TURNER: Representative Creighton—

CREIGHTON: No, that is not what—

S. TURNER: Representative Creighton, when you say you're not picking winners or losers, your amendment says, number one, water first, everything else is second. By definition, your amendment has picked the winner, and everybody

else stands to lose. Now, I'm not the smartest cookie in town, but I've got enough common street sense to know that your amendment is intended to put water first, school children second, and everybody else falling in line. Now, I'm not crazy, Representative Creighton, so let's just be clear, it's the intent of your amendment to find whatever money you need for water, even if it's at the expense of our public school children.

CREIGHTON: Chairman Turner, if you'll vote with me on my amendment and you'll vote for Chairman Ritter on the bill, you will invalidate my amendment. You will show your commitment to use the rainy day fund, protecting what you see are the current funding levels in the budget for public schools, and you and I will win together. So, vote for my amendment. Vote for Chairman Ritter on the bill, and protect our kids and our schools.

S. TURNER: Representative Creighton, I can't support anything when water wins and school children lose. That is not an even proposition.

DUTTON: You know, last session, when we were here, there were a number of us who argued that we ought not to make the significant cuts in public education. We, of course, wanted to go to the rainy day fund. There were a number of amendments designed to do that—to help fund public education. And we were told no, we couldn't do that. We had to protect the sanctity of the rainy day fund. Fast-forward to today. All of a sudden water, now, has taken a priority in this legislative body, such that we are now prepared to take the money out of the pockets of school kids in Texas. We've already given them the money. Now, what Mr. Creighton's amendment does is says, we are going to take it back. Now, most of you are familiar with the adage about robbing Peter to pay Paul, but I don't think most of you can stand robbing little children in Texas to pay for water problems in Texas. That would be a travesty if we did that, members, and like I said, I think we're smarter collectively, I think we're smarter than we were last session. At least we were, up until the time that we started to approach this problem by trying to take away from the children in Texas, prohibit them from getting a quality education because we think water is more important.

You know, one of my friends used to say the problem with the legislature is that they can't figure out how to function in a crisis, that when they have five children, and three poor ones, they get rid of two kids. That's what they're doing today. I mean, that's what they're suggesting today, and somehow or another, public education doesn't matter as much as water does. I believe that it does, members. I believe, irrespective of all the issues related to water, and I know water is one of the driving forces for an economic engine in this state, but you know what, we can solve the water problem and still not be a state that people don't want to come to. And the reason they won't want to come, because we haven't had the whatever-it-takes to properly fund public education, and we need to. And so, I ask you to vote for this amendment. And I know Mr. Creighton's amendment was crafted because they don't think they can get the votes to take the money out of the rainy day fund. Well, I don't think that means that you ought to take the easy road out, and say, well, we're going to take it out of the little children of Texas' pocket, so they no longer get the quality education they need.

REPRESENTATIVE VILLARREAL: Chairman Dutton, there's been a lot of talk about water, as if, if this state does not make this investment, there's going to be no investment in water. On the other hand, we know that is not true.

DUTTON: Right.

VILLARREAL: There are local government entities that—in fact, what this fund that Chairman Ritter is creating is intended to incentivize them—to issue debt, to raise property taxes, to create the infrastructure—and we will help them to some extent, but they will carry most of the weight. And that is a very different kind of partnership than what we have with our schools. Is that not right?

DUTTON: Well, I agree with you, I just don't—

VILLARREAL: Is it not accurate that our school districts are at the ceiling? There is no capacity at the local level?

DUTTON: They depend almost solely on you and I, and this legislature.

VILLARREAL: And while our constitution requires us to cover educating our children, when it comes to water utilities, that has historically been something that is carried by our local communities, is that not right?

DUTTON: Absolutely, and Mr. Villarreal, you know, if the members in this house want to be first in water and last in education—because that's where we're headed if you don't vote for my amendment. We're headed to being, maybe we'll be first in water, but I don't think the headlines are going to be too kind to us if we're last in education. And, so, while we sit here today and pit these two entities—both of which are important—we pit them against each other, members. I will tell you, Texas being 49th, having a 49th ranking in public education funding—

REPRESENTATIVE BRANCH: Wouldn't you agree Mr. Dutton, your comments earlier were a little—to me you said, last session we had some people wanting to take funds from the rainy day fund for school operations?

DUTTON: That's correct.

BRANCH: And at this time, some people want to take money from the rainy day fund for water?

DUTTON: Yes, and the same people who didn't want to do it last session are the people who want to do it this session.

BRANCH: But to be fair, wouldn't you agree that there is a difference? One was for operations of schools, and this one, at least you can make the argument, that this is moving it over to a separate fund for a capital investment? We're not trying to pay water operations out of this budget. We're trying to make a capital investment, and the argument last time, as good as it might have been, was for operations—ongoing operations of schools.

DUTTON: Chairman Branch, as far as I'm concerned, that's a distinction without a difference. Let me tell you why—

BRANCH: Well, for me it's an important distinction and I just want to make sure you acknowledge it, and I'm very thankful for you acknowledging the difference.

DUTTON: I understand the argument. I understand that we could make this argument, but somehow or another, we don't really know what the projects are going to be done on the water side either. We don't know if they are going to be capital improvement projects that require us to come back here and re-fund them and keep putting money in them. There's nothing on here that says that. And while I respect your argument, Chairman Branch, I just don't agree that I can divorce the two from today's vote, because I think it is equally as important to make sure that we properly fund public education in this state as it is to have some sort of structural water issues before us. And so, with that, members, I would ask you to vote no on the motion to table, and let's make sure we don't rob the schoolchildren in Texas to pay for water—there's got to be a better way.

REMARKS ORDERED PRINTED

Representative S. Turner moved to print all remarks on Amendment No. 3.

The motion prevailed.

Representative Creighton moved to table Amendment No. 3.

The motion to table prevailed by (Record 374): 86 Yeas, 59 Nays, 2 Present, not voting.

Yeas — Anderson; Ashby; Aycock; Bell; Bohac; Bonnen, G.; Branch; Burkett; Button; Callegari; Capriglione; Carter; Clardy; Cook; Craddick; Creighton; Crownover; Dale; Darby; Davis, J.; Davis, S.; Elkins; Farney; Fletcher; Flynn; Frank; Frullo; Goldman; Gonzales; Gooden; Harless; Harper-Brown; Hilderbran; Huberty; Hughes; Hunter; Isaac; Kacal; Keffer; King, K.; King, S.; Kleinschmidt; Klick; Kolkhorst; Krause; Kuempel; Larson; Laubenberg; Lavender; Leach; Lewis; Miller, D.; Miller, R.; Morrison; Murphy; Orr; Otto; Paddie; Parker; Perry; Phillips; Pitts; Price; Raney; Ratliff; Riddle; Ritter; Sanford; Schaefer; Sheets; Sheffield, J.; Sheffield, R.; Simmons; Smith; Smithee; Springer; Stephenson; Stickland; Taylor; Thompson, E.; Toth; Turner, E.S.; Villalba; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Anchia; Burnam; Canales; Coleman; Collier; Cortez; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Farias; Farrar; Geren; Giddings; González, M.; Gonzalez, N.; Guerra; Gutierrez; Hernandez Luna; Herrero; Howard; Johnson; King, T.; Longoria; Lozano; Lucio; Márquez; Martinez; Martinez Fischer; McClendon; Menéndez; Miles; Moody; Muñoz; Naishtat; Nevárez; Oliveira; Patrick; Perez; Pickett; Raymond; Reynolds; Rodriguez, E.; Rodriguez, J.; Rose; Simpson; Strama; Thompson, S.; Turner, C.; Turner, S.; Villarreal; Vo; Walle; White; Wu.

Present, not voting — Mr. Speaker; Bonnen, D.(C).

Absent, Excused — Fallon; Guillen; King, P.

CSHB 11 - POINT OF ORDER

Representative Y. Davis raised a point of order against further consideration of **CSHB 11** under Rule 6, Section 7 and Rule 6, Section 17 of the House Rules on the grounds that further action was taken on the bill after it had been placed on the calendar.

The chair overruled the point of order and submitted the following statement:

Representative Y. Davis raised a point of order against further consideration of **CSHB 11** under Rule 6, Section 7 and Rule 6, Section 17 of the House Rules, asserting that the Committee on Calendars lacked authority to move the bill from the General State Calendar to the Major State Calendar. The point of order is respectfully overruled.

Representative Y. Davis notes that **CSHB 11** was initially placed on the General State Calendar. Two days later, the Committee on Calendars reconsidered the vote by which the bill was placed on the calendar, then voted to place **CSHB 11** on the Major State Calendar. Representative Y. Davis asserts that after placing the bill on the General State Calendar, the Committee on Calendars lacked authority to take any further action on the bill without first moving to recommit the bill to the committee.

The sections of Rule 6 on which Representative Y. Davis relies do not prohibit the Committee on Calendars from reconsidering its vote to place a bill on a calendar and moving that bill to a different appropriate calendar. Rule 6, Section 7 of the House Rules lists the calendars that compose the system of calendars. Rule 6, Section 17 of the House Rules provides that once a bill is placed on its appropriate calendar, the bill retains its position relative to other bills on the calendar such that any bills added later must be added later on the calendar. Section 17 further provides that if a bill is recommitted or withdrawn from the calendar, it relinquishes its position on the calendar and is removed from the calendar. Although recommitment and withdrawal of a bill would result in the bill losing its place on the calendar, recommitment and withdrawal are not the only conditions for moving a bill from the calendar. Further, it is clear that the Committee on Calendars may continue to act on a bill after it has been set on a calendar. See Rule 6, Section 16(f) of the House Rules (Committee on Calendars may adopt and publish a calendar rule to a bill already set on the calendar).

It is also clear the Committee on Calendars may correct or revise calendars. The Committee on Calendars may likewise exercise its wide discretion to move bills from one type of calendar to another. *E.g.*, **HB 10**, (83rd R.S., 2013); **SB 650**, (82nd R.S., 2011); **HB 21**, **HB 102**, **HB 298**, **HB 1327**, **HB 1437**, **HB 1453**, **HB 1477**, **HB 1659**, **HB 1759**, **HB 1800**, **HB 2103**, **HB 2169**, **HB 2270**, **HB 2324**, **HB 2436**, **HB 2356**, **HB 2436**, **HB 2474**, **HB 2481**, **HB 2571**, **HB 2633**, **HB 2635**, **HB 2705**, **HB 2887**, **HB 2909**, **HB 2913**, **HB 3019**, **HB 3054**, **HB 3059**, **HB 3075**, **HB 3339**, **HB 3428**, **HB 3471**, **HB 3512**, **HB 3544**, **HB 3575**, **HB 3576**, (75th R.S., 1997); see Rule 6, Section 25 of the House Rules (stating the intent "of the calendar system to give the Committee on Calendars wide discretion to insure adequate consideration by the house of important legislation").

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 2).

(Speaker in the chair)

Amendment No. 1 - Point of Order

Representative Giddings raised a point of order against further consideration of Amendment No. 1 under Article III, Section 30 of the Texas Constitution on the grounds that the amendment would change the original purpose of the bill.

The speaker overruled the point of order and submitted the following statement:

Representative Giddings raised a point of order against further consideration of **CSHB 11** pursuant to Article III, Section 30 of the Texas Constitution, asserting that adding Amendment No. 1 to the bill would change its original purpose. The point of order is respectfully overruled.

CSHB 11 appropriates money from the economic stabilization fund to fund water. Amendment No. 1 would fund water using general revenue if the bill did not receive the requisite votes to use money from the economic stabilization fund. The chair notes that Amendment No. 1 had not been adopted at the time when Representative Giddings raised her point of order. However, assuming the point had been raised after adoption of the amendment, the chair finds that Amendment No. 1's provision of an alternate method to fund water would not have constituted a change in purpose in violation of Article III, Section 30. Instead, this alternate funding was consistent with the bill's purpose of funding the state water implementation fund for Texas.

CSHB 11 - POINT OF ORDER

Representative S. Turner raised a point of order against further consideration of **CSHB 11** under Rule 8, Section 21 of the House Rules on the grounds that the general appropriations bill has not yet been certified by the comptroller.

The speaker sustained the point of order and submitted the following statement:

Representative S. Turner raised a point of order against further consideration of **CSHB 11** and the amendment under consideration pursuant to Rule 8, Section 21 of the House Rules. The point of order is sustained.

Representative S. Turner has directed the chair to house precedent in which a point of order under Rule 8, Section 21(a) of the House Rules was sustained. The chair also reviewed house precedent in which a point of order under Rule 8, Section 21(a) of the House Rules was overruled. See 80 H.J. Reg. 1475-76 (2007). Having reviewed the specific facts surrounding this bill and amendment and the rule, the chair agrees that the point of order should be sustained and **CSHB 11** should be returned to the Committee on Appropriations.

CSHB 11 was returned to the Committee on Appropriations.

SB 945 ON SECOND READING

(S. Davis - House Sponsor)

SB 945, A bill to be entitled An Act relating to the identification requirements of certain health care providers associated with a hospital.

SB 945 was read second time earlier today and was postponed until this time.

Amendment No. 1

Representative S. Davis offered the following amendment to **SB 945**:

Amend **SB 945** (house committee report) on page 1, line 24, by striking "the provider's title, as assigned by the hospital" and substituting "the type of license held by the provider, if the provider holds a license under Title 3, Occupations Code".

Amendment No. 1 was adopted.

SB 945, as amended, was passed to third reading. (Flynn, Phillips, Schaefer, Toth, and White recorded voting no.)

CSHB 1782 - LAID ON THE TABLE SUBJECT TO CALL

Representative S. Davis moved to lay **CSHB 1782** on the table subject to call.

The motion prevailed.

**HB 2439 ON SECOND READING
(by Parker, Carter, et al.)**

HB 2439, A bill to be entitled An Act relating to the review of certain contracts by the state auditor.

HB 2439 was read second time on April 26, postponed until 12 p.m. today, and was again postponed until this time.

Amendment No. 1

Representative Parker offered the following amendment to **HB 2439**:

Amend **HB 2439** (house committee printing) on page 2, line 2, by striking "\$1 million" and substituting "\$10 million".

Amendment No. 1 was adopted.

Amendment No. 2

Representatives Martinez Fischer and Parker offered the following amendment to **HB 2439**:

Amend **HB 2439** (house committee printing) by inserting, on page 2, between lines 8 and 9, the following:

(c) In selecting a major contract to review under this section, the state auditor shall consult with:

(1) the House Select Committee on Transparency in State Agency Operations;

(2) the House Committee on Government Efficiency and Reform;

(3) the Senate Committee on Open Government; and

(4) the Senate Committee on State Affairs.

(d) A request made by the state auditor to a state agency for information relating to a major contract being reviewed under this section is a request under Chapter 552 for legislative purposes as provided by Section 552.008.

Amendment No. 2 was adopted.

HB 2439, as amended, was passed to engrossment.

HB 939 ON SECOND READING**(by J. Davis)**

HB 939, A bill to be entitled An Act relating to repealing the employment and training investment assessment; changing the rate of certain unemployment taxes.

HB 939 was read second time earlier today and was postponed until this time.

Representative J. Davis moved to postpone consideration of **HB 939** until 8 a.m. tomorrow.

The motion prevailed.

FIVE-DAY POSTING RULE SUSPENDED

Representative Kolkhorst moved to suspend the five-day posting rule to allow the Committee on Public Health to consider **HB 594**, **HB 2880**, **SB 141**, **SB 1058**, and the previously posted agenda at 8 a.m. Wednesday, May 1 in E2.012.

The motion prevailed.

Representative Raymond moved to suspend the five-day posting rule to allow the Committee on Human Services to consider **SB 502** at 10:30 a.m. or upon final adjournment/recess tomorrow in E2.030.

The motion prevailed.

Representative Aycock moved to suspend the five-day posting rule to allow the Committee on Public Education to consider **SB 1406** at 2 p.m. or upon final adjournment tomorrow in E2.036.

The motion prevailed.

Representative Pickett moved to suspend the five-day posting rule to allow the Committee on Homeland Security and Public Safety to consider **HB 3673** and previously posted business at 8 a.m. Thursday, May 2 in E2.010.

The motion prevailed.

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Homeland Security and Public Safety, 8 a.m. Thursday, May 2, E2.010, for a public hearing, to consider **HB 3673** and previously posted business.

Human Services, 10:30 a.m. or upon final adjournment/recess tomorrow, E2.030, for a public hearing, to consider **SB 502** and the previously posted agenda.

Public Education, 2 p.m. or upon final adjournment tomorrow, E2.036, for a public hearing, to consider **SB 1406** and the previously posted agenda.

PROVIDING FOR ADJOURNMENT

At 8:19 p.m., Representative Vo moved that, at the conclusion of the reading of bills and resolutions on first reading and referral to committees, the house adjourn until 10 a.m. tomorrow.

The motion prevailed.

**BILLS AND JOINT RESOLUTIONS ON FIRST READING
AND REFERRAL TO COMMITTEES
RESOLUTIONS REFERRED TO COMMITTEES**

Bills and joint resolutions were at this time laid before the house, read first time, and referred to committees. Resolutions were at this time laid before the house and referred to committees. (See the addendum to the daily journal, Referred to Committees, List No. 1.)

(Taylor in the chair)

ADJOURNMENT

In accordance with a previous motion, the house, at 8:24 p.m., adjourned until 10 a.m. tomorrow.

ADDENDUM

REFERRED TO COMMITTEES

The following bills and joint resolutions were today laid before the house, read first time, and referred to committees, and the following resolutions were today laid before the house and referred to committees. If indicated, the chair today corrected the referral of the following measures:

List No. 1

HB 3952 (By Nevárez), Relating to the composition of the juvenile board of Val Verde County.

To Corrections.

HB 3953 (By Creighton), Relating to authorizing certain special districts in Montgomery County to enter into strategic partnership agreements.

To Special Purpose Districts.

HCR 112 (By Gonzales), Designating April 2013 as Civitan International Awareness Month.

To Rules and Resolutions.

HCR 114 (By Giddings), Directing the Texas Workforce Commission to rename the Texas Workforce Commission building to the Lloyd M. Bentsen State Office Building.

To State Affairs.

HCR 115 (By Zedler), Designating the city of Mansfield as the Pickle Capital of Texas for a 10-year period beginning in 2013.

To Culture, Recreation, and Tourism.

HR 1740 (By Lozano), Congratulating the team from H. M. King High School in Kingsville on winning the Texas High School Powerlifting Association Division 2 state championship.

To Rules and Resolutions.

HR 1741 (By Lozano), Recognizing April 30, 2013, as San Patricio County Day.

To Rules and Resolutions.

HR 1742 (By Lozano), Congratulating Port Corpus Christi on its new partnership with voestalpine.

To Rules and Resolutions.

HR 1744 (By Hughes), In memory of Mary Margret Smith of Mineola.

To Rules and Resolutions.

HR 1745 (By Workman), Congratulating the members of the Bedichek Middle School Junior Marine Corps on their success at the National Middle School Drill Team Competition.

To Rules and Resolutions.

HR 1746 (By Springer), Commending Donna and Jim Biffle for their service to Sacred Heart Catholic School in Muenster.

To Rules and Resolutions.

HR 1747 (By Fallon), Congratulating the students selected for the House District 106 Internship Program.

To Rules and Resolutions.

HR 1748 (By Craddick), Congratulating J. W. and Diane Putman of Lamesa on their 50th wedding anniversary.

To Rules and Resolutions.

HR 1749 (By Fallon), Commending The Colony for being named a finalist for the National Civic League All-America City Award.

To Rules and Resolutions.

HR 1750 (By Fallon), Congratulating Matthew Poursoltani of Pilot Point High School on setting a new state record in the bench press and winning the Texas High School Powerlifting Association state title in the 275-pound weight class.

To Rules and Resolutions.

HR 1751 (By Isaac), Commemorating the 2013 Hill Country BBQ Cook-Off in San Marcos.

To Rules and Resolutions.

HR 1752 (By Isaac), Paying tribute to the life of Texas Ranger John Coffee "Jack" Hays on the 130th anniversary of his death.

To Rules and Resolutions.

HR 1753 (By Isaac), In memory of inspirational author and speaker Zig Ziglar of Plano.

To Rules and Resolutions.

HR 1754 (By Larson), Recognizing May 18 to 24, 2013, as National Safe Boating Week.

To Rules and Resolutions.

HR 1755 (By Zedler), Commemorating the 120th anniversary of the First United Methodist Church of Crowley.

To Rules and Resolutions.

HR 1756 (By White), Commemorating the Honor and Remember Texas Chapter Memorial Day weekend honors program.

To Rules and Resolutions.

HR 1757 (By Lucio), In memory of former state representative Don Lee of Harlingen.

To Rules and Resolutions.

HR 1758 (By Darby), Congratulating Helen Rebecca Mann of San Angelo on the occasion of her 100th birthday.

To Rules and Resolutions.

HR 1759 (By P. King), Congratulating the Brock High School girls' basketball team on winning the 2013 UIL 2A state championship.

To Rules and Resolutions.

HR 1760 (By Frullo), Congratulating John and Pat Camp of Lubbock on their 50th wedding anniversary.

To Rules and Resolutions.

HR 1761 (By Frullo), Congratulating Betty and Jim Flournoy of Lubbock on their 50th wedding anniversary.

To Rules and Resolutions.

HR 1762 (By Frullo), Congratulating James and Omalee Pritchard of Lubbock on their 50th wedding anniversary.

To Rules and Resolutions.

HR 1763 (By Frullo), Congratulating Jimmy and Winona Milner of Lubbock on their 60th wedding anniversary.

To Rules and Resolutions.

HR 1764 (By Frullo), Congratulating Fred and Erika Brown of Lubbock on their 50th wedding anniversary.

To Rules and Resolutions.

HR 1765 (By Frullo), Congratulating Edward and Sharon Anderson of Lubbock on their 50th wedding anniversary.

To Rules and Resolutions.

HR 1766 (By Frullo), Congratulating J. L. and Mildred Cooper of Lubbock on their 60th wedding anniversary.

To Rules and Resolutions.

HR 1767 (By Frullo), Congratulating Wyley and Mildred Mauldin of Lubbock on their 60th wedding anniversary.

To Rules and Resolutions.

HR 1768 (By Frullo), Congratulating John and Beth Ann Spraberry of Lubbock on their 50th wedding anniversary.

To Rules and Resolutions.

HR 1769 (By Frullo), Congratulating the South Plains Wildlife Rehabilitation Center on its 25th anniversary.

To Rules and Resolutions.

HR 1770 (By Frullo), In memory of Stephen Ross Payne of Lubbock.

To Rules and Resolutions.

HR 1771 (By Frullo), Congratulating Melynn Hunt on her retirement as assistant athletic director for the Lubbock Independent School District.

To Rules and Resolutions.

HR 1772 (By Craddick), Congratulating Larry and Judy Turner of Sparenberg on their 50th wedding anniversary.

To Rules and Resolutions.

HR 1773 (By Lucio), Commending Walmart and the Walmart Foundation for donations totaling \$1 billion in cash and in-kind contributions over the past fiscal year.

To Rules and Resolutions.

SIGNED BY THE SPEAKER

The following bills and resolutions were today signed in the presence of the house by the speaker:

Senate List No. 18

SCR 34

MESSAGES FROM THE SENATE

The following messages from the senate were today received by the house:

Message No. 1

MESSAGE FROM THE SENATE

SENATE CHAMBER

Austin, Texas

Monday, April 29, 2013 - 1

The Honorable Speaker of the House

House Chamber

Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

HCR 98 Zerwas SPONSOR: Nelson
Designating May 2013 as Amyotrophic Lateral Sclerosis Awareness Month in Texas.

HCR 100 Branch SPONSOR: Carona
Commending retired Texas Supreme Court chief justice Jack Pope for his service and congratulating him on his 100th birthday.

SB 392 West
Relating to notice to the attorney general of challenges to the constitutionality of Texas statutes.

SB 861 Davis
Relating to requiring certain notices to be posted on the premises of certain alcoholic beverage retailers.

SB 1061 Van de Putte
Relating to parking privileges of disabled veterans on the property of institutions of higher education.

SB 1868 Campbell
Relating to the creation of the Needmore Ranch Municipal Utility District No. 1; granting a limited power of eminent domain; providing authority to issue bonds; providing authority to impose assessments, fees, or taxes.

Respectfully,
Patsy Spaw
Secretary of the Senate

Message No. 2

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Monday, April 29, 2013 - 2

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

SB 937 West
Relating to the authority of a peace officer to apprehend a person for emergency detention and the authority of certain facilities to temporarily detain a person with mental illness.

SB 950 Carona

Relating to requiring certain alcoholic beverage permittees to be the primary American source of supply for certain alcoholic beverages.

SB 1175 Deuell

Relating to the establishment of a reuse program for durable medical equipment provided to recipients under the Medicaid program.

SB 1177 Deuell

Relating to the development of a statewide ST-segment elevation myocardial infarction system of care plan.

SB 1475 Duncan

Relating to a jail-based restoration of competency pilot program.

Respectfully,

Patsy Spaw

Secretary of the Senate

APPENDIX

STANDING COMMITTEE REPORTS

Favorable reports have been filed by committees as follows:

April 26

Agriculture and Livestock - **HB 1208** (corrected), **HB 3037**

Business and Industry - **HB 3547**, **SB 381**

Culture, Recreation, and Tourism - **HB 2150**, **SCR 12**, **SCR 28**

Economic and Small Business Development - **HB 2015**, **HB 2388**, **SB 920**

Energy Resources - **HB 2184**, **SB 900**, **SB 901**

Environmental Regulation - **HB 2368**, **HB 3465**, **HB 3812**

Federalism and Fiscal Responsibility, Select - **HJR 101** (corrected)

Government Efficiency and Reform - **HB 367**, **HB 2267**, **HJR 112**

Higher Education - **SB 15**, **SB 120**

Homeland Security and Public Safety - **HB 1199**, **HB 1430**, **HB 2648**,
HB 3805

Human Services - **HB 165**, **HB 1267**, **HB 1452**

Insurance - **HB 3270**

Investments and Financial Services - **SB 661**

Judiciary and Civil Jurisprudence - **HB 2772**, **HB 3153**

Licensing and Administrative Procedures - **HB 2818**

Natural Resources - **HB 2382, HB 3604, HB 3605, HB 3910, HB 3915, HCR 59**

Pensions - **HB 99, HB 1383, HB 2127**

Public Education - **HB 647, HB 1568, HB 1926, HB 2872**

Public Health - **HB 286, HB 453, HB 2869, HB 3285, HB 3427, SB 945**

State Affairs - **HB 3192, SB 283, SB 346, SJR 13**

Transportation - **HB 679, HB 1134, HB 2691, SB 1017, SB 1730**

Urban Affairs - **HB 1966, HB 1967, HB 2473**

Ways and Means - **HB 1279, HB 1597, HB 1662, HB 1913, HB 2269, HB 2419, HB 2792, HB 3296, HB 3390, HB 3438, HB 3439, HB 3440, HB 3441, HB 3572, HB 3613**

ENGROSSED

April 26 - HB 62, HB 139, HB 148, HB 317, HB 333, HB 429, HB 431, HB 480, HB 696, HB 747, HB 762, HB 773, HB 797, HB 857, HB 964, HB 1135, HB 1191, HB 1206, HB 1247, HB 1294, HB 1385, HB 1405, HB 1435, HB 1487, HB 1494, HB 1530, HB 1545, HB 1580, HB 1624, HB 1739, HB 1753, HB 1767, HB 1768, HB 1970, HB 1973, HB 2105, HB 2137, HB 2213, HB 2300, HB 2302, HB 2392, HB 2459, HB 2475, HB 2571, HB 2627, HB 2649, HB 2673, HB 3031, HB 3361, HB 3676, HCR 40